

Message Text

LIMITED OFFICIAL USE

PAGE 01 STATE 213294

43

ORIGIN OPIC-06

INFO OCT-01 NEA-10 ISO-00 EB-07 TRSE-00 L-03 COME-00

JUSE-00 FRB-03 AID-05 XMB-02 CIAE-00 INR-07 NSAE-00

OES-06 SSO-00 NSCE-00 INRE-00 SS-15 NSC-05 SP-02 /072 R

DRAFTED BY OPIC/GC:RSTERN/EB/IFD/OIA:DHSTEBBING

APPROVED BY EB/IFD/OIA:RJSMITH

TREASURY:RBANQUE

NEA/PAB:DARCHARD

L/NEA:JROHWER

COMMERCE:GFELDMAN

----- 017993

O 271558Z AUG 76

FM SECSTATE WASHDC

TO AMEMBASSY DACCA IMMEDIATE

LIMITED OFFICIAL USE STATE 213294

E.O. 11652: N/A

TAGS: EINV

SUBJECT: BELBAGCO

REF: (A) DACCA 3346; (B) STATE 185996; (C) DACCA 3944;
(D) DACCA 4029; (E) DACCA 4216

1. WE SUGGEST THE FOLLOWING AS A REPLY TO INDUSTRIES
SECRETARY MAJIDUL HAQ'S INVITATION FOR A FORMAL USG RESPONSE
TO THE LEGAL POSITIONS STATED IN HIS JUNE 25, 1976 LETTER
AND TO THE CONCERNS OF THE GOVERNMENT OF BANGLADESH
EXPRESSED IN REFTEL (C) PARA. 3 AND REFTEL (D) PARA. 1A.
IF EMBASSY PERCEIVES NO DIFFICULTIES WITH TEXT, PLEASE
DELIVER AS A LETTER TO HAQ.

2. ADDRESSED TO INDUSTRIES SECRETARY MAJIDUL HAD WITH
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 213294

USUAL SALUTATION. BEGIN TEXT: PLEASE MAKE REFERENCE

TO YOUR LETTER DATED JUNE 25, 1976 REGARDING THE CLAIM FOR COMPENSATION FILED WITH THE GOVERNMENT OF BANGLADESH BY BELBAGCO, INC. ("BELBAGCO") IN CONNECTION WITH ITS JUTE MILL LOCATED AT NARAYANGANJ AND TO THE INVITATION YOU EXTENDED ON AUGUST 2, 1976 THAT THE UNITED STATES GOVERNMENT REPLY THERETO.

-- THE SUBJECT OF THIS CLAIM FOR COMPENSATION, AS THE GOVERNMENT OF BANGLADESH HAS REPEATEDLY ACKNOWLEDGED TO U.S. EMBASSY OFFICIALS AND REPRESENTATIVES OF BELBAGCO, IS THE NATIONALIZATION OF PROPERTY BENEFICIALLY OWNED BY A U.S. FIRM. AT THE TIME OF THE NATIONALIZATION, THE BANGLADESH FABRIC CO., LTD. (BFC) WAS EXCLUSIVELY OWNED BY BELBAGCO, INC., A CORPORATION ORGANIZED UNDER THE LAWS OF THE STATE OF DELAWARE AND HAVING ITS PRINCIPAL OFFICE IN THE CITY OF BELTON, STATE OF SOUTH CAROLINA, U.S.A.

-- THE STATEMENT IN YOUR JUNE 25, 1976 LETTER, THAT BELBAGCO QUOTE SHOULD BE ABLE TO GET DIVIDENDS AND EXERCISE OTHER RIGHTS UNQUOTE IN RESPECT OF ITS INVESTMENT IN BFC SUGGESTS THAT BELBAGCO HAS SUFFERED NO LOSS ON ACCOUNT OF THE ACTIONS OF THE GOVERNMENT OF BANGLADESH. THIS IS PLAINLY CONTRARY TO FACT. BFC IS NOW OWNED, MANAGED AND OPERATED BY AND FOR THE EXCLUSIVE BENEFIT OF THE GOVERNMENT OF BANGLADESH, TO THE ABSOLUTE EXCLUSION OF BELBAGCO'S FORMER RIGHT TO EXERCISE CONTROL OVER THE COMPANY AND TO OTHERWISE DERIVE THE BENEFITS OF ITS OWNERSHIP IN THE JUTE MILL LOCATED AT NARAYANGANJ.

-- NOTWITHSTANDING THE MANNER IN WHICH THE BANGLADESH GOVERNMENT CHOSE TO EFFECT THE NATIONALIZATION, THEREFORE, THE BANGLADESH GOVERNMENT HAS AN OBLIGATION UNDER INTERNATIONAL LAW TO PAY PROMPT, ADEQUATE, AND EFFECTIVE COMPENSATION TO BELBAGCO OR ANY SUCCESSOR TO ITS RIGHTS. THE U.S. GOVERNMENT CANNOT ACCEPT A DISTINCTION BETWEEN THE SEIZURE OF THE COMPANY'S ASSETS AND THE SEIZURE OF ITS SHARES AS GROUNDS FOR AVOIDING THIS OBLIGATION. COMPENSATION IS DUE FOR THE PROPERTY TAKEN. AS YOUR GOVERNMENT IS AWARE, U.S. STATUTES WHICH PROVIDE AUTHORITY FOR CERTAIN ECONOMIC PROGRAMS CONTAIN PROVISIONS THAT LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 STATE 213294

REQUIRE THE U.S. GOVERNMENT TO WITHHOLD THE BENEFITS OF THESE PROGRAMS, UNLESS THERE IS REASONABLE PROGRESS TOWARD PAYMENT OF FAIR COMPENSATION TO U.S. CITIZENS FOR PROPERTY NATIONALIZED BY HOST GOVERNMENTS.

-- MOREOVER, THE CHALLENGE TO LIABILITY BY YOUR GOVERNMENT FOR PAYMENT OF COMPENSATION WITH RESPECT TO THE BELBAGCO CLAIM IS DIRECTLY CONTRARY TO THE FUNDAMENTAL

PREMISE UPON WHICH THE OVERSEAS PRIVATE INVESTMENT CORPORATION (OPIC) EXCHANGED NOTES WITH THE GOVERNMENT OF BANGLADESH ON JANUARY 17 AND 20, 1975, RELATING TO U.S. INVESTMENT GUARANTEES AND INSURANCE IN BANGLADESH. IN THAT EXCHANGE OF NOTES MR. A.B.M. GHULAM MOSTAFA RECOGNIZED OPIC'S POSITION AS POTENTIAL SUBROGEE OF

THE BELBAGCO CLAIM AND UNDERTOOK TO NEGOTIATE OR ARBITRATE QUOTE ANY DIFFERENCES BETWEEN THE TWO GOVERNMENTS CONCERNING THE COMPENSATION FOR THE NATIONALIZED ASSETS OF BELBAGCO UNQUOTE. OPIC HAS SETTLED THE CLAIM BY BELBAGCO AND ACCORDINGLY WILL SUFFER DIRECT LOSSES, IF YOUR GOVERNMENT MAINTAINS THE POSITION STATED IN YOUR JUNE 25, 1976, LETTER AND REFUSES TO HONOR ITS COMMITMENT TO NEGOTIATE OR ARBITRATE THE AMOUNT OF COMPENSATION DUE FOR BFC IN ACCORDANCE WITH THE EXCHANGE OF NOTES.

-- ON THE BASIS OF THE FOREGOING, THE U.S. GOVERNMENT REQUESTS THAT YOUR GOVERNMENT PAY THE AMOUNT OF COMPENSATION DUE IN REGARD TO BFC, AS SPECIFIED IN THE CLAIM FILED BY OPIC'S PREDECESSOR IN INTEREST, OR BEGIN NEGOTIATING WITH OPIC AS TO APPROPRIATE COMPENSATION. END TEXT. KISSINGER

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: NATIONALIZATION, CLAIMS, COMPENSATION
Control Number: n/a
Copy: SINGLE
Draft Date: 27 AUG 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: saccheem
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE213294
Document Source: CORE
Document Unique ID: 00
Drafter: RSTERN/EB/IFD/OIA:DHSTEBBING
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760327-0417
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760811/aaaaajes.tel
Line Count: 139
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN OPIC
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 DACCA 3346, 76 STATE 185996, 76 DACCA 3944, 76 DACCA 4029, 76 DACCA 4216
Review Action: RELEASED, APPROVED
Review Authority: saccheem
Review Comment: n/a
Review Content Flags:
Review Date: 07 JUN 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <07 JUN 2004 by ElyME>; APPROVED <04 OCT 2004 by saccheem>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: BELBAGCO
TAGS: EINV, EIND, BG, US, BELBAGCO INC
To: DACCA
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006